

REMARKS

Claims 1-50 are pending in this application. Reconsideration of the above-identified application in view of the following remarks is respectfully requested. Claims 1, 6, 12, 14, 15, 27, 38 and 43-48 are independent.

Procedural History:

In response to an Office Action dated December 21, 2005 (“the prior Office Action”), Applicant filed an Amendment dated April 21, 2006 (“the prior Response”). That amendment addressed some minor antecedent basis issues in the claims and the accompanying remarks explained the distinctions over the prior art. A final Office Action was mailed on December 18, 2006 (“the final Office Action”). This paper is in response to the final Office Action.

Rejections Under 35 U.S.C. § 102(e):

Claims 1-4, 6-8, 10-12, 14 and 38-46 were rejected under 35 U.S.C. §102(e) as being unpatentable over U.S. Publication No. 2002/0142757A1 to Leung et al. (“Leung”). Claims 1, 6, 12, 14, 38 and 43-46 are independent.

In the prior Response, Applicant traversed the rejection of claim 1 under 35 U.S.C. §102(e) in view of Leung set forth in the prior Office Action. In particular, Applicant explained why ¶¶ 0042, 0058 & 0059 of Leung, which were the only paragraphs cited by the Examiner in rejecting claim 1, failed to teach or suggest the claimed features of “transmitting at least one of a digital audio or video broadcast service on a first channel; and transmitting pointer data on the first channel, wherein the pointer data identifies a second channel on which a service announcement identifying the service transmitted on the first channel is located” and why the “overhead messages”

in ¶ 0059 relied upon by the Examiner do not correspond to the claimed “pointer data”. The relevant remarks from the prior Response are reproduced below:

Although the paragraphs of Leung relied upon in rejecting claim 1 -- namely, ¶¶ 0042, 0058 & 0059, mention a “broadcast service schedule” (see ¶ 0059), there is no teaching or suggestion in the cited paragraphs of transmitting, on a first channel, both a broadcast service and pointer data that identifies a second channel that contains a service schedule that identifies the service being transmitted on the broadcast channel. Moreover, the “overhead messages” mentioned in ¶ 0059 do not correspond to the claimed “pointer data” because, in contrast to claim 1, Leung discloses that upon reading the overhead messages, the mobile station merely “tunes to the frequency containing the HSBS [High-Speed Broadcast Service] channel and receives the broadcast service content”. In other words, the overhead messages that are read do not “identif[y] a second channel on which a service announcement identifying the service transmitted on the first channel is located”, as required by claim 1.

Accordingly, Applicant respectfully submits that claim 1 is not anticipated by Leung.

(Amendment dated April 21, 2006, p. 13)

Also in the prior Response, Applicant requested clarification of the rejection of claim 1 by stating: “[i]f the Examiner persists in the rejection of claim 1 in view of Leung, Applicant respectfully requests that the Examiner identify what exactly in the cited passages of Leung the Examiner contends corresponds to the ‘pointer data’ and the ‘service announcement’, as recited in claim 1.” (Id.)

Applicant further asserted that claims 2-4, 6-8, 10-12, 14 and 38-46 contain features similar to those found in claim 1, and thus, were allowable for at least the same reasons as set forth in urging the allowance of claim 1. Id. at p. 14, 16.

Now, in the final Office Action, and, in particular, in the “Response to Arguments” section thereof (p. 16 of the final Office Action), the Examiner allegedly responds to Applicant’s traversal in its prior Response of the rejections under 35 U.S.C. §102(e) in view of Leung, as follows:

In response to the applicant's argument that 'there is no teaching on Leung on a first channel both on broadcast service and pointer data that identified a second channel that constraints a service schedule that identified the service being transmitted on the broadcast channel, and 'overhead message' do not correspond to the claimed 'pointer data'.

The Examiner asserts that Leung teaches the overhead information which expressly includes neighbor cell information for soft handoff including PN offset information for a neighbor cell, which would read as link level access parameter. Further is repeatedly indicated that a session identifier is provided for a particular broadcast session, not for one particular base station or cell. Therefore, application's argument are not persuasive, as they hinge on this supposed lack of this teaching. Looking specifically the broadcast channel is on;ly requires that prior to handoff a base station broadcasts multicast session information for a cell and a second cell, and this is clearly described in the cited portion of paragraph 0087-0088).

Applicant's makes the assertion that the only description of overhead information is contained in paragraph 0083-0084, however, this is inaccurate as it is only part of the text describing the overhead which as described above discloses information for multiple cells as described in paragraph 0087-0089, wherein at least a neighbor pilot PN sequence offset index and a neighbor pilot forward broadcast supplemental Code Channel index and method using UMTS, as UNTS is wll known to be a developing standard that will support multimedia applications where multicast will be used.

(Office Action dated December 11, 2006, p. 16-17)

Applicant respectfully submits that it is entirely unclear what the Examiner is saying in the above-quoted passage of the final Office Action and how it relates to the subject matter of claim 1. For example, the Examiner's response is not tied to specific claim language. Although it appears as if the Examiner is maintaining that the "overhead information" of Leung corresponds to the claimed "pointer data", the Examiner fails to explain why the claimed functionality of the pointer data – namely, "wherein the pointer data identifies a second channel on which a service announcement identifying the service transmitted on the first channel is located", is disclosed by Leung. Thus, Applicant respectfully submits that the Examiner has failed to respond to Applicant's arguments as to why that functionality is not met by the "overhead messages" of Leung. Nor do paragraphs 0087-0089 of Leung, which the Examiner relies upon for the first time in the final Office

Action (see “Response to Arguments” section thereof, pp. 16-17), teach or suggest that claimed functionality.

Also in the final Office Action, the Examiner has not addressed Applicant’s request for clarification as to what exactly in Leung the Examiner contends corresponds to the “service announcement” of claim 1.

Lastly, the Examiner, in the “Response to Arguments” section of the final Office Action states that “Applicant’s makes the assertion that the only description of overhead information is contained in paragraph 0083-0084”. However, in the prior response, Applicant never referred to paragraphs 0083 and 0084 of Leung, and thus, the Examiner’s statement is unfounded and makes the final Office Action all the more confusing.

Applicant respectfully submits that the foregoing is an inadequate response to Applicant’s arguments, and fails to advance the prosecution of the above-identified application. To the extent claims 1-4, 6-8, 10-12, 14 and 38-46 are not allowed in view of Applicant’s remarks in Applicant’s prior Response, Applicant respectfully submits that a new Office Action should be issued in which Applicant’s request for clarification and its arguments for allowance of claims 1-4, 6-8, 10-12, 14 and 38-46 are addressed in a clear and comprehensible fashion.¹ Moreover, any attempt to do this in an Advisory Action would be unacceptable, since it should have been done in the final Office Action; providing it in an Advisory Action would unfairly prejudice Applicant by

¹ In the remarks of its prior Response, Applicant also noted that the Examiner relies on only ¶ 0095 of Leung in rejecting claims 43 and 44. Those claims are article of manufacture counterparts to method claims 1 and 6, which were rejected in view of ¶¶ 0042, 0058 & 0059 of Leung, but not ¶ 0095. Applicant reviewed ¶ 0095 and submitted in its prior Response that it does not teach or suggest the pointer data functionality of claim 1. Instead, it is directed merely to transmitting parameters for processing content as a Block of Bits in an overhead message. In the final Office Action (pp. 6-7), the Examiner continues to rely on only ¶ 0095 of Leung for claims 43 and 44 and has not clarified the rejection’s reliance upon only ¶ 0095 nor commented on Applicant’s response to the rejection. Clarification is respectfully requested.

allowing less time for Applicant to consider the Examiner's position and by requiring an extension of time for any further action.

Rejections Under 35 U.S.C. §103:

Claims 15-37, 47 and 48 were rejected under 35 U.S.C. §103 as being unpatentable over Leung in view of U.S. Patent No. 6,519,455 to McCormick et al. ("McCormick").

Claim 49 was rejected under 35 U.S.C. §103 as being unpatentable over Leung in view of McCormick and U.S. Patent No. 6,463,585 to Hendricks.

Claim 50 was rejected under 35 U.S.C. §103 as being unpatentable over Leung in view of McCormick. Claims 15, 27, 47 and 48 are independent.

In its prior response, Applicant traversed the rejection of claim 15 under 35 U.S.C. §103 in view of Leung and McCormick set forth in the prior Office Action. Specifically, Applicant explained why various features recited in those claims are, contrary to the Examiner's assertions, neither taught nor suggested by McCormick. The relevant remarks from Applicant's prior Response, are reproduced below:

The Office Action provides that the claimed features of "searching in the first signals for redirection information" and "selecting and accessing a second communication channel ... if the redirection information is received within a first period of time; and selecting and accessing a third communication channel if the redirection information is not received within the first period of time", are taught by McCormick at col. 3, lines 21-65; col. 4, lines 32-48; and col. 9, lines 44-60.

Although the cited passages of McCormick refer to "a new eight bit (octet) parameter" (see, e.g., McCormick, col. 3, lines 55-59) that is used in the handoff procedure, this message is received by a target switching center, whereas claim 15 is directed to a method performed by a mobile terminal. McCormick discloses mobile units monitoring beacon channels of surrounding cell sites or transceivers to determine signal strengths, which the mobile units then transmit to the serving cell site as an ordered list of signal strengths (see, e.g., McCormick, col. 8, lines 16-27). However, monitoring signal strengths does not involve "searching in the first signals for redirection information", as required by claim 15.

In addition, although a mobile unit in McCormick receives a message from a serving cell site to tune to a broadcast channel of a target cell site (see,

e.g., McCormick, col. 8, line 65 – col. 9, line 1), this merely involves the mobile unit switching from one channel to another whenever instructed by the serving cell site to do so, rather than a mobile terminal accessing either of two different channels (either the claimed “second channel” or “third channel”) depending on whether or not redirection information is received by the mobile terminal on a first channel within a first period of time, as required by claim 15.

Accordingly, Applicant respectfully submits that claim 15 is patentable over the combination of Leung and McCormick.

(Amendment dated April 21, 2006, p. 15-16)

Moreover, in traversing the rejection of claim 15 in view of Leung and McCormick in its prior response, Applicant requested clarification of the rejection by asking the Examiner to identify precisely what in McCormick the Examiner contends corresponds to various claim features allegedly met by McCormick, since the correspondence between those claimed features and McCormick were not elaborated upon in the Office Action, and thus, could not be discerned therefrom or from McCormick itself. The relevant remarks from Applicant’s prior response, are reproduced below:

If the Examiner persists in the rejection of claim 15 in view of Leung and McCormick, Applicant respectfully requests that the Examiner identify what exactly in the cited passages of McCormick the Examiner contends corresponds to the “first channel”, “redirection information”, “second channel”, “third channel”, and “first period of time”, as recited in claim 15.

(Amendment dated April 21, 2006, p. 16)

Applicant further asserted that claims 16-37, 47 and 48 contain features similar to those found in claim 15, and thus, were allowable for at least the same reasons as set forth in urging the allowance of claim 15. Id. at p. 16.

Now, in the final Office Action and, in particular, in the “Response to Arguments” section thereof (page 17, beginning with the second full paragraph), the Examiner allegedly responds to Applicant’s traversal in its prior Response of the rejections under 35 U.S.C. §103 in

view of Leung and McCormick. However, the second full paragraph on page 17 begins with the following text: “In response to the applicant’s argument that McCormick fails to teach”. This is literally an incomplete “sentence” that goes no where. What follows that sentence is a discussion directed to the inadequacy of Applicant’s alleged argument that there is no suggestion to combine Leung and McCormick.

Applicant respectfully submits that there are at least three reasons why this portion of the Examiner’s “Response to Arguments” is wholly inadequate:

First, it does *not at all* respond to Applicant’s arguments regarding various claim features missing from McCormick, as evidenced by the above-quoted incomplete sentence.

Second, it is a response to arguments allegedly made by Applicant regarding a lack of motivation to combine Leung and McCormick, whereas Applicant’s remarks that accompanied its prior response did not include any remarks directed to a lack of motivation to combine those two references. Instead, Applicant’s remarks focused on why various claim features allegedly disclosed by McCormick, are neither taught nor suggested by McCormick, and thus, why Leung and McCormick, even if combined in the manner suggested in the prior Office Action, would not arrive at the claimed invention.²

Third, essentially the entire discussion that appears on pages 17 and 18 of the “Response to Arguments” concerning the motivation to combine Leung and McCormick is a *verbatim* copy of the rejection set forth on pages 9 and 10 of the final Office Action, which, in turn, is a *verbatim* copy of the rejection set forth on page 9 of the prior Office Action, and thus, cannot reasonably be considered a “*response*” to Applicant’s arguments.

² Applicant, however, reserves the right to address the lack of motivation to combine Leung and McCormick in the future should such a response be deemed necessary and appropriate.

Also in the final Office Action, the Examiner has not addressed Applicant's request for clarification as to the alleged correspondence between various claimed features and McCormick. As discussed previously, those claimed features include the "first channel", "redirection information", "second channel", "third channel", and "first period of time", as recited in claim 15. Instead, the Examiner simply reiterates *verbatim* in the body of the final Office Action the same grounds of rejection set forth in the prior Office Action, without addressing, in the Response to Arguments section of the final Office Action, Applicant's request for clarification.

Applicant respectfully submits that the foregoing is an entirely inadequate and improper response to Applicant's arguments, and fails to advance the prosecution of the above-identified application. Should claims 15-37, 47 and 48 not be allowed in view of Applicant's remarks in its prior response, Applicant respectfully submits that a new Office Action should be issued in which Applicant's request for clarification and its arguments for allowance of claims 15-37, 47 and 48 are addressed in a clear and comprehensible fashion. Moreover, any attempt to do this in an Advisory Action would be unacceptable, since it should have been done in the outstanding Office Action; providing it in an Advisory Action would unfairly prejudice Applicant for the reasons already stated.

Dependent Claims:

Applicant does not believe it necessary at this time to address the rejections of the dependent claims as Applicant believes that the foregoing arguments and amendments place the independent claims in condition for allowance. Applicant, however, reserves the right to address those rejections in the future should such a response be deemed necessary and appropriate.

For the above-stated reasons, this application is respectfully asserted to be in condition for allowance, and an early and favorable examination on the merits is respectfully requested.

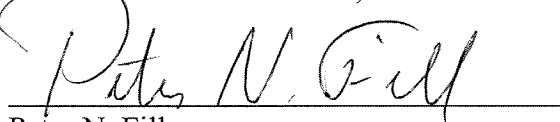
AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required by this response, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4208-4061. A DUPLICATE COPY OF THIS PAPER IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 4208-4061. A DUPLICATE COPY OF THIS PAPER IS ATTACHED.

Respectfully submitted,
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